S.B.Cr. Misc. Bail Application No. 2140/2007
(Babulal vs. State of Rajasthan)

Date of order : July 04, 2007

HON'BLE MR.H.R.PANWAR,J.

Mr.H.M.Saraswat, for the petitioner.
Mr.Ashok Upadhyaya, P.P. for the State.

Heard learned counsel for the petitioner and the Public Prosecutor for the State. Perused the order impugned, statement of the prosecutrix recorded by the Judicial Magistrate under section 164 Cr.P.C. and the first information report.

It is contended by the learned counsel for the petitioner that the prosecutrix and two others viz. Madanlal husband of the prosecutrix and Dhanraj were arrested by the police under section 41/109 Cr.P.C. and produced before the Judicial Magistrate, where she has not stated that she has been subjected to rape by the petitioner or anybody else and, therefore, it is totally a false case.

Learned Public Prosecutor opposes the bail application and contends that the prosecutrix has levelled allegation of rape against the petitioner and others in FIR, her statements before

the police as also before the Judicial Magistrate under section 164 Cr.P.C.

I have given my thoughtful consideration to the rival submissions made by the learned counsel for the parties.

Keeping in view the statement of the prosecutrix, FIR and the manner in which she alleged to have been induced and kidnapped and thereafter was subjected to rape and even there is an allegation that she was sold by the petitioner, in my view, in such matters, custodial interrogation is necessary and, therefore, it is not a fit case for grant anticipatory bail.

The bail application filed by the petitioner under section 438 Cr.P.C. is, therefore, dismissed.

(H.R.PANWAR),J.

m.asif/-